

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2010060469

v.

COACHELLA VALLEY UNIFIED SCHOOL  
DISTRICT,

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COACHELLA VALLEY UNIFIED SCHOOL  
DISTRICT,

OAH CASE NO. 2010060472

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING REQUEST TO  
AMEND COMPLAINT

On June 10, 2010, Parents on behalf of Student (Student) filed a Due Process Hearing Request (complaint), naming Coachella Valley Unified School District (District) as Respondent. On June 11, 2010, the District filed a Request for Due Process Hearing (District's complaint). The two cases were consolidated on June 30, 2010. On October 14, 2010, Student filed a Request to Amend the Due Process Hearing Request (amended complaint). The District noted that it would oppose a request to amend the complaint in its Prehearing Conference Statement dated October 14, 2010. On October 18, 2010, the ALJ heard oral arguments as to Student's Request to Amend Complaint at the Prehearing Conference.

An amended complaint may be filed when either (a) the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or (b) the hearing officer grants permission, provided the hearing officer may grant such permission at any time more than five (5) days prior to the due process hearing. (20 U.S.C. §1415(c)(2)(E)(i)(II).)<sup>1</sup> The filing of an amended complaint restarts the applicable timelines for the due process hearing. (§1415(f)(1)(B).)

Student seeks to replace the complaint with an amended complaint with a pleading that changes the first and third issues of the original complaint. The complaint dealt with

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<sup>1</sup> All statutory citations are to Title 20 United States Code unless otherwise indicated.

issues for the time period of June 2008 through June 2010 in its first two issues. The amended complaint substitutes new issues dealing with the May 7-14, 2010 IEP and whether Student qualifies for special education and related services under the eligibility category of autistic-like behaviors. Student cites the results of a new private assessment as the reason for the requested amended complaint.

The District opposes Student's request on grounds that it was filed untimely and would unnecessarily delay the resolution by hearing of its complaint in OAH Case No. 2010060472 which deals with the issue of the appropriateness of the District assessment conducted in February and March 2010.

The motion to amend is timely and is granted. The amended complaint shall be deemed filed on the date of this order. The order consolidating OAH Cases numbered 2010060469 and 2010060472 is hereby vacated. OAH Case No. 2010060472 will proceed to hearing as scheduled. The Parties agree that the OAH Case No. 2010060469 will proceed as follows:

**Mediation** on January 6, 2011 at 9:30 a.m at the District offices located at 87-225 Church Street, Thermal, CA 92274.

**Telephonic Prehearing Conference** on January 10, 2011 at 1:30 p.m.

**Due Process Hearing** on January 24-28, 2011 at the District offices.

IT IS SO ORDERED.

Dated: October 18, 2010

/s/

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ROBERT HELFAND  
Administrative Law Judge  
Office of Administrative Hearings